



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-3140

OFFICE OF  
ENVIRONMENTAL CLEANUP

APR 12 2012

**NOTICE AND REQUEST LETTER  
REPLY NECESSARY  
UPS NEXT DAY DELIVERY**

Mr. Tom Schultz  
Director  
Idaho Department of Lands  
300 North 6<sup>th</sup> Street, Suite 103  
P.O. Box 83720  
Boise, Idaho 83720-5956

Re: Avery Landing Site, Shoshone County, Idaho

Dear Mr. Schultz:

The United States Environmental Protection Agency is preparing for implementation of a removal action at the Avery Landing Site ("Site") located approximately three quarters of a mile to the west of the town of Avery in Shoshone County, Idaho. The EPA is planning to have the cleanup work at the Site initiated and completed during the 2012 field work season. We anticipate that one portion of the removal action will be performed by the EPA, while the other portion will be performed by Potlatch Corporation, Potlatch Forest Products Corporation, and Potlatch Land and Lumber, LLC (together "Potlatch Companies") under the oversight of the EPA.

The Site is situated immediately adjacent to the St. Joe River. As EPA understands it, the Idaho Department of Lands ("IDL") is the owner of property at the Site that lies between the high water mark of the river and the private property interests of the Potlatch Companies and Larry and Ethel Benteik. For years, oil emanating from the Site has been impacting the St. Joe River and adjoining shoreline. Investigations by the EPA, the Idaho Department of Environmental Quality and others have shown there to be oil and hazardous substances in subsurface soil, groundwater, sediment, and surface water at the Site. The goals of the removal action will include reducing these areas and sources of contamination and protecting against further impacts to the public health and welfare and the environment.

The removal action will likely involve the property of IDL at the Site. This may include active cleanup of contaminated sediment, soil, and structures related to prior cleanup efforts on or under the surface of the property, as well as use of the property as a means for conducting cleanup work elsewhere at the Site. The EPA requests unconditional consent for access from IDL to this property for the purpose of performing the removal action. The full cooperation of IDL in this regard is considered essential for the purpose of effectuating a proper cleanup of the Site.

Enclosed with this letter is a form which provides consent for access to the property of IDL at the Site. The EPA requests that IDL sign this form, without making any alterations thereto, and return it to EPA within fifteen (15) days of the date of this letter.

The EPA is also providing this letter as notice of the potential liability of IDL under Federal law for the cleanup work and costs associated with the response to contamination at the property of IDL.

The release, discharge, and disposal of contamination at the Site and from the Site to the St. Joe River are subject to action under, among other laws, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601-9675, the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. §§ 1251-1387, and the Solid Waste Disposal Act, also known as the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901-6992k. IDL may be liable for costs or work under one or more of these laws.

Please let the EPA know whether, and if so, in what ways and to what extent, IDL intends to contribute to the cost and performance of the upcoming cleanup work at the Site. Again, the costs incurred by the EPA and others to address contamination at and emanating from the property of IDL may otherwise be the subject of future claims.

Should you have any questions or concerns regarding this letter, please call me at (206) 553-1855. Your staff may contact the Federal On-Scene Coordinator for the Site, Earl Liverman. Mr. Liverman may be reached at telephone number (208) 664-4858 and electronic mail address [liverman.earl@epa.gov](mailto:liverman.earl@epa.gov). The EPA is also represented in this matter by Richard Mednick, Associate Regional Counsel. Mr. Mednick may be reached at telephone number (206) 553-1797 and electronic mail address [mednick.richard@epa.gov](mailto:mednick.richard@epa.gov). Any inquiries from counsel for IDL should be directed to Mr. Mednick.

Thanks you in advance for your attention to these matters. With your assistance, we look forward to getting the Avery Landing cleanup into full swing by the middle of May.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan Opalski", is written over the typed name.

Daniel D. Opalski  
Director

Enclosure

cc: Earl Liverman, EPA  
Richard Mednick, EPA  
Steve Shuster, Esq., IDL  
Darrell Early, Esq., IDEQ



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**CONSENT FOR ENTRY TO PROPERTY  
AT THE AVERY LANDING SITE**

Name & Title/Position: \_\_\_\_\_

Represent: \_\_\_\_\_

Property Address \_\_\_\_\_  
or Location: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Relationship to Property: \_\_\_\_\_

The Idaho Department of Lands (IDL) hereby provides consent to the officers, employees, agents, authorized representatives and persons acting at the request of the United States Environmental Protection Agency (EPA) to enter the property at the address/location shown above for the purpose of performing a removal action and associated sampling and cleanup activities as may be determined to be necessary by EPA.

This written consent is provided voluntarily by IDL and with knowledge of the right to refuse and without threats or promises of any kind. This consent is granted until the removal action and associated activities at the Avery Landing Site are deemed complete by EPA.

IDL recognizes that the actions by EPA are undertaken pursuant to its authorities under Federal law, including, but not necessarily limited to, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675. It also being understood that upon completion of these activities, EPA will attempt to restore the property as nearly as possible to its original condition.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

